



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2015-0228; FRL-9928-07-Region 9]

Revisions to the California State Implementation Plan, Eastern  
Kern Air Pollution Control District, Mojave Desert Air Quality  
Management District

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is taking direct final action to approve revisions to the Eastern Kern Air Pollution Control District (EKAPCD) and Mojave Desert Air Quality Management District (MDAQMD) portions of the California State Implementation Plan (SIP). These revisions concern volatile organic compound (VOC) emissions from polyester resin operations and oil-water separators. The EPA is approving local rules that regulate these emission sources under the Clean Air Act (CAA or the Act).

**DATES:** These rules are effective on **[Insert date 60 days after the date of publication in the Federal Register]** without further notice, unless the EPA receives adverse comments by **[Insert date**

**30 days after the date of publication in the Federal Register].**

If we receive such comments, we will publish a timely withdrawal in the **Federal Register** to notify the public that this direct final rule will not take effect.

**ADDRESSES:** Submit comments, identified by docket number EPA-R09-OAR-2015-0228 by one of the following methods:

1. *Federal eRulemaking Portal:* [www.regulations.gov](http://www.regulations.gov). Follow the on-line instructions.
2. *E-mail:* [steckel.andrew@epa.gov](mailto:steckel.andrew@epa.gov).
3. *Mail or deliver:* Andrew Steckel (Air-4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

*Instructions:* All comments will be included in the public docket without change and may be made available online at [www.regulations.gov](http://www.regulations.gov), including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through [www.regulations.gov](http://www.regulations.gov) or e-mail.

[www.regulations.gov](http://www.regulations.gov) is an "anonymous access" system, and the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send e-mail

directly to the EPA, your e-mail address will be automatically captured and included as part of the public comment. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

*Docket:* Generally, documents in the docket for this action are available electronically at [www.regulations.gov](http://www.regulations.gov) and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California 94105-3901. While all documents in the docket are listed at [www.regulations.gov](http://www.regulations.gov), some information may be publicly available only at the hard copy location (e.g., copyrighted material, large maps), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

**FOR FURTHER INFORMATION CONTACT:** Nancy Levin, EPA Region IX, (415) 972-3848, [levin.nancy@epa.gov](mailto:levin.nancy@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document, "we," "us," and "our" refer to the EPA.

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### I. The State's Submittal.

- A. *What rules did the State submit?*

Table 1 lists the rules addressed by this proposal with the dates that they were adopted by the local air agencies and submitted by the California Air Resources Board.

Table 1 - Submitted Rules

Local Agency	Rule #	Rule Title	Adopted/ Amended	Submitted
EKAPCD	432	Polyester Resin Operations	03/13/2014	07/25/2014
MDAQMD	464	Oil-Water Separators	06/23/2014	11/6/2014

On September 11, 2014, the EPA determined that the submittal for EKAPCD Rule 432 met the completeness criteria in 40 CFR part 51, appendix V, which must be met before formal EPA review. On December 18, 2014, the EPA determined that the submittal for MDAQMD Rule 464 met the completeness criteria in 40 CFR part 51, appendix V.

*B. Are there other versions of these rules?*

There are no previous versions of Rule 432 in the SIP. We approved an earlier version of Rule 464 into the SIP on September 27, 1995 (60 FR 49772).

*C. What is the purpose of the submitted rules?*

VOCs help produce ground-level ozone and smog, which harm human health and the environment. Section 110(a) of the CAA requires States to submit regulations that control VOC emissions.

The purpose of Rule 432 is to reduce VOC emissions from polyester resin operations. Rule 432 requires that for open molding processes, operators must use materials that comply with limits specified in Table 1 of the rule. It also sets requirements for non-monomer VOC content and for the use of resins containing a vapor suppressant. Rule 432 requires use of a closed-mold system or installation and operation of a VOC emission control system that meets specific requirements,

including an overall capture and control efficiency of at least 90 percent by weight. In addition, the rule sets requirements for touch up, repair, and small jobs, spray application, organic solvents used in cleaning operations, and solvent storage and disposal. Rule 432 provides exemptions for small uses and certain solvent cleaning operations. It includes recordkeeping requirements, test methods, and compliance schedules.

The purpose of Rule 464 is to reduce VOC emissions from oil-water separators. Revised Rule 464 updates the rule's applicability to include additional oil-water separators, specifies cover seal tolerances, updates the required overall control efficiency from 90% to 95%, addresses the processing of oil or tar skimmed from separators, reduces the threshold for fugitive leak violations, clarifies exemptions, extends the recordkeeping requirement to 5 years, and adds test methods.

EPA's technical support documents (TSDs) have more information about these rules.

## **II. EPA's Evaluation and Action.**

### *A. How is the EPA evaluating the rules?*

SIP rules must be enforceable (see CAA section 110(a)(2)), must not interfere with applicable requirements concerning attainment and reasonable further progress or other CAA requirements (see CAA section 110(1)), and must not modify

certain SIP control requirements in nonattainment areas without ensuring equivalent or greater emissions reductions (see CAA section 193).

Guidance and policy documents that we use to evaluate enforceability, revision/relaxation and rule stringency requirements for the applicable criteria pollutants include the following:

1. "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations" ("the Bluebook," U.S. EPA, May 25, 1988; revised January 11, 1990).
2. "Guidance Document for Correcting Common VOC & Other Rule Deficiencies" ("the Little Bluebook", EPA Region 9, August 21, 2001).

Generally, SIP rules must require Reasonably Available Control Technology (RACT) for each category of sources covered by a Control Techniques Guidelines (CTG) document as well as each VOC major source in ozone nonattainment areas classified as moderate or above (see sections 182(b)(2) and 182(f)).

The EPA has designated the EKAPCD as a Moderate nonattainment area for the 1997 8-hour ozone standard and as a Marginal nonattainment area for the 2008 8-hour ozone standard. See 40 CFR 81.305. Rule 432 must implement RACT for the 1997 8-hour ozone standard because RACT requirements apply in areas

designated as Moderate or above (i.e., or Serious, Severe, or Extreme).

The EPA has designated a portion of the MDAQMD as a Severe nonattainment area for both the 1997 and 2008 8-hour ozone standards. Rule 464 must implement RACT because RACT requirements apply in areas designated as Moderate or above.

*B. Do the rules meet the evaluation criteria?*

We believe these rules are consistent with the relevant policy and guidance regarding enforceability, RACT, and SIP relaxations. The TSDs have more information on our evaluation.

*C. The EPA's recommendations to further improve the rules.*

The TSDs describe additional rule revisions that we recommend for the next time the local agencies modify the rules but are not currently the basis for rule disapproval.

*D. Public comment and final action.*

As authorized in section 110(k)(3) of the Act, the EPA is fully approving the submitted rules because we believe they fulfill all relevant requirements. We do not think anyone will object to this approval, so we are finalizing it without proposing it in advance. However, in the Proposed Rules section of this **Federal Register**, we are simultaneously proposing approval of the same submitted rules. If we receive adverse comments by **[Insert date 30 days after date of publication in the**



**Federal Register**], we will publish a timely withdrawal in the **Federal Register** to notify the public that the direct final approval will not take effect and we will address the comments in a subsequent final action based on the proposal. If we do not receive timely adverse comments, the direct final approval will be effective without further notice on [**Insert date 60 days after date of publication in the Federal Register**]. This will incorporate these rules into the federally enforceable SIP.

Please note that if the EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, the EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

### **III. Incorporation by Reference.**

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the EKAPCD and MDAQMD rules described in the amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, these documents generally available electronically through [www.regulations.gov](http://www.regulations.gov) and in hard copy at the appropriate EPA office (see the **ADDRESSES** section of this preamble for more information).

#### **IV. Statutory and Executive Order Reviews.**

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);

- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. section 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [**Insert date 60 days after date of publication in the Federal Register**]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a

comment in response to the parallel notice of proposed rulemaking for this action published in the Proposed Rules section of this **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that the EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control,  
Incorporation by reference, Intergovernmental relations, Ozone,  
Reporting and recordkeeping requirements, Volatile organic  
compounds.

Dated: May 8, 2015.

Alexis Strauss,  
Acting Regional Administrator,  
Region IX.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

**PART 52 - APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

1. The authority citation for part 52 continues to read as follows:

**AUTHORITY:** 42 U.S.C. 7401 et seq.

**Subpart F - California**

2. Section 52.220 is amended by adding paragraphs (c) (447) (i) (D) and (c) (457) (i) (B) to read as follows:

**§52.220 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

(447) \* \* \*

(i) \* \* \*

(D) Eastern Kern Air Pollution Control District.

(1) Rule 432, "Polyester Resin Operations," adopted on March 13, 2014.

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(457) \* \* \*

(i) \* \* \*

(B) Mojave Desert Air Quality Management District.

(1) Rule 464, "Oil-Water Separators," amended on June 23, 2014.

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[FR Doc. 2015-13680 Filed: 6/4/2015 08:45 am; Publication Date:  
6/5/2015]